

Application Number 09/808,851
Responsive to Office Action mailed April 22, 2005

REMARKS

This paper is responsive to the Office Action dated April 22, 2005. Claims 1, 3-6, 8-16, 18-21, 24-36, 38-41 and 44-74 remain pending.

Request for Supervisory Review

Before addressing the specific grounds of rejection advanced by the Examiner in the Office Action, Applicants wish to respectively comment on the lack of progress in this application. This response is directed to the fifth, non-final Office Action in this application. Pursuant to MPEP § 707.02, in the interest of expediting prosecution, Applicants respectfully request that the Supervisory Patent Examiner (SPE) in charge of this application inspect the prosecution history, and specifically review the current rejections in view of the brief comments below. Applicants invite the SPE to contact the Attorney, signed below, if this could be helpful advance prosecution.

Applicants note that extensive Examiner Interviews were conducted with Examiner Vig and Supervisory Examiner Weiss in November of 2004. At that time, a formal agreement was reached regarding the allowability of the currently pending claims.

Applicants recognize that the current Office Action is based on newly applied prior art. However, Applicants believe that the newly applied art teaches nothing beyond the prior art that has already been addressed, and specifically discussed with both Examiner Vig and Supervisory Examiner Weiss. In other words, the currently applied prior art is merely cumulative of the art previously applied. For this reason, Applicants are confused as to why this application remains rejected, notwithstanding the agreement reached in November of 2004.

The following comments are brief. Applicants believe that all pending claims distinguish the prior art of record for many reasons that have been articulated on the record several times, and discussed in extensive detail with the Examiners. Applicants hope that the brief comments below will be thoroughly considered by the SPE so that Applicants can avoid the time, effort and costs that will be needed for an appeal to the Board of Patent Appeals.

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Brief discussion of claim rejections under 35 U.S.C. 103(a)

In the Office Action, the Examiner appears to have rejected all pending claims as being unpatentable over "EColor Incorporated" in view of Bernard et al. (USPN 6,744,448). Applicants have interpreted "EColor Incorporated" to refer to a series of Internet web pages that are currently of record. The web pages that form "EColor Incorporated" appear to have been printed on December 20, 2004, although they also appear to have publication dates that pre-date Applicants' filing date. Applicants do not admit that any or all of these printed pages constitute prior art, but have nevertheless addressed the references under the assumption that they were published prior to Applicants' filing date. Applicants reserve the right, however, to challenge the publication dates of the various Internet web pages that are referred to as "Ecolor Incorporated."

Applicants also respectively note that the Office Action, while addressing all the claims, actually states that claims 1, 3-6, 8-10, 16, 18-21, 24-28, 35, 36, 38-41 and 44-46 are rejected. Applicants believe this to be a typographical error, and believes that all pending claims currently stand rejected.

All of Applicants' pending claims recite techniques that include characterizing colorimetric responses of display devices associated with source clients and destination clients by delivering a series of web pages to the source and destination clients that guide the clients through a color profiling process. All pending claims also require the modification of color images based on the colorimetric responses of display devices associated with the source clients and the colorimetric responses of display devices associated with the destination clients. Applicants have discussed these features extensively on the record.

As previously described, in a "two-way" environment, such as in an on-line auction or photo context, color inaccuracy must be reconciled at both the input and output, i.e., the source and destination side of a network. In particular, a source client uploads an image to a server, and a destination client downloads the image from the server. Different buyers have different display systems, but different sellers may also have different display and image capture systems. Accurate image rendering can be improved by modifying images sent from the source client (e.g., a given seller) before sending the images to the destination client (e.g., a specific buyer). For an online auction, unlike a retail web site, the images may not originate from a single source, but rather, from thousands of generally anonymous sellers acting as source clients. There can be

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wide variation in the colorimetric responses of the various devices used by source clients and destination clients, resulting in confusion about the true color of an item offered for sale. Online photo sharing and fulfillment sites can raise similar image color accuracy issues.

Applicants' claimed invention recognizes these issues. All pending claims recite techniques that include characterizing colorimetric responses of display devices associated with source clients and destination clients by delivering a series of web pages to the source and destination clients that guide the clients through a color profiling process. All pending claims also require the modification of color images based on the colorimetric responses of display devices associated with the source clients and the colorimetric responses of display devices associated with the destination clients.

Thus, all pending claims require the delivery of a series of web pages to the destination clients, e.g., to profile the different display devices associated with the destination clients. In addition, all pending claims also require the delivery of a series of web pages to the source clients, e.g., to profile the different display devices associated with the source clients.

In the Office Action, the Examiner cited "Ecolor Incorporated" as disclosing the delivery of a series of web pages to the destination clients that guide the destination client through a color profiling process. However, the Examiner seems to have overlooked that the pending claims also require the delivery of a series of web pages to the source clients that guide the source clients through a color profiling process. Indeed, neither "Ecolor Incorporated" nor Bernard discloses or suggests the delivery of a series of web pages to the source clients that guide the source clients through a color profiling process.

In the Office Action, the Examiner indicated that Bernard discloses "conventional methods for color corrected images." Bernard, however, does not recognize the drawback of settings such as on-line auctions, which involve many different sources communicating images to several different clients. To be sure, nothing in Bernard suggests a technique in which a series of web pages are delivered to the source clients to guide the source clients through a color profiling process, in combination with delivery of series of web pages to destination clients to guide the destination clients through a color profiling process.

To the extent that Bernard may teach that conventional methods for correcting color images can require characterization of the video system used to create the image, as stated by the

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Examiner, such conventional techniques do not recognize the drawbacks of on-line settings, or the like, that have many sources. A conventional retail establishment web-site, for example, would be aware of its own color characterization, and would therefore only need to execute color characterization from the destination clients in order to render accurate color. That situation is fundamentally different from one in which images are provided by multiple source clients.

For example, in a situation having a single source (e.g., a retailer web site), the color rendering may be based on the source and destination, but characterization at the source side (such as by delivering a series of web pages) would not be needed, as the retailer itself would be in complete control of the source images. Applicant's pending claims, in contrast to conventional techniques, require the deliver of a series of web pages to source clients (and the destination clients) to characterize display devices associated with the source clients (and display devices associated with the destination clients).

Again, in order to improve color rendering in a setting in which several source devices render images to several destination devices, calibration of the source devices and destination devices is needed. Applicants' pending claims specify a method and system that achieves this by delivering a series of web pages, not only to the destination devices, but also to the source devices. This is not disclosed or suggested by Bernard.

In short, nothing in either "EColor Incorporated" or Bernard suggests a technique in which a series of web pages are delivered to the source clients (in addition to the destination clients) to guide the source clients through a color profiling process. For this reason, and other reasons previously advanced on the record, all claims in this application are in condition for allowance.

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Applicants respectfully request reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

July 20, 2005

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